



US Army Corps
of Engineers.

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

for
East Bay Regional Park District Routine Maintenance
Re-issuance of Regional General Permit

NUMBER: 28902S

DATE: January 31, 2005

RESPONSE REQUIRED BY: March 2, 2005

PERMIT MANAGER: Phelicia M. G. Thompson

PHONE: 415-977-8452

Email: Phelicia.M.Thompson@spd02.usace.army.mil

1. INTRODUCTION: East Bay Regional Park District (EBRPD), 2950 Peralta Oaks Court, P.O. Box 5381, Oakland, California, 94605-0381 (Contact Steven Bobzien (510)544-2347), has applied for reauthorization of their U.S. Army, Corps of Engineers (Corps) Regional General Permit (RGP) which allows for routine maintenance activities within EBRPD-managed lands within Alameda and Contra Costa Counties. The original RGP was authorized in August of 1998. This reauthorization would permit activities for five construction seasons from spring of 2005 through fall of 2009. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. Section 403).

2. PROPOSED PROJECT:

Project Site: The RGP will authorize maintenance projects within various waterways and wetlands in EBRPD lands within Contra Costa and Alameda Counties (see attached figure).

Project Description: EBRPD manages approximately 100,000 acres of open space and park lands within Contra Costa and Alameda Counties. On these lands, EBRPD performs various maintenance activities designed to improve watersheds and maintain existing structures. These

activities include: maintenance of road crossings, culvert replacement and maintenance, bank stabilization, maintenance dredging, maintenance of other existing structures (wells, levees, swim dams, etc.) and other minor discharges of fill material for new structures as necessary. The number of projects performed under this RGP will vary by year. Routine maintenance projects involving streams, creeks, lakes, wetlands, bay shorelines or ponds will be annually identified in the field by park operations staff and/or EBRPD management who are intimately familiar with their park's infrastructure. EBRPD will submit a detailed list of proposed projects to the Corps at least 30 days prior to the start of construction season for review and approval. Construction season will correspond to the portion of the year when the potential for aquatic and aquatic species impacts will be minimal, normally from May 15 through October 15. At the conclusion of the construction season, EBRPD will submit a second report documenting which projects were actually constructed and the impacts associated with each, including the area and volume of permanent fill in waters of the U.S.

A copy of a summary of work performed under the first RGP has been attached. This document exemplifies the extent of likely maintenance work for the reauthorized RGP, as well as documenting the minimal environmental impacts of previously

authorized activities.

Purpose and Need: The basic purpose of this project is maintenance. The overall purpose of this project is to provide safe public, emergency and employee access to, and maintain the natural resources within EBRPD lands.

Impact: The exact amount of fill from future maintenance projects cannot be identified, however, EBRPD permanently filled only 0.38 acre of jurisdictional waters of the U.S. for 151 separate maintenance projects conducted between 1998 and 2002. Impacts under the reauthorized RGP are not expected to significantly deviate from this amount.

Mitigation: The maintenance projects authorized under the reauthorized RGP will have minimal environmental impacts to aquatic resources. Most projects will benefit aquatic systems by reducing sedimentation or restoring flows thereby allowing for a more natural flow regime. Minor short term impacts to aquatic resources may occur but the applicant has proposed standard best management practices to reduce and rectify these impacts. As such, the Corps has not required program-wide mitigation in advance. However, under this RGP, the Corps may require mitigation for separate projects after review of the EBRPD annual report if one or more project is found to have more than minimal environmental impact.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Part 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and 325, Appendix B. Unless

otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Species and critical habitat currently identified as potentially impacted by the proposed project include the California red-legged frog, proposed critical habitat for the frog, California tiger salamander, proposed critical habitat for the salamander, California clapper rail and salt-marsh harvest mouse.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. The Corps has not identified any specific EFH concerns associated with reauthorization of this RGP.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Control Board (Board). A 401 Certification was issued from the Board on July

21, 2004.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California, 94612, by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water or wetland dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project will comply with the State's Coastal Zone Management Program, if applicable. No Corps permit will be issued until the State has concurred with the applicant's certification. Coastal development issues should be directed to San Francisco Bay Conservation and Development Commission (BCDC), 50 California Street, Suite 2600, San Francisco, California 94111.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, historic or archeological resources may occur in the project vicinity. However, the proposed work will not affect any of these resources. If unrecorded resources are discovered during construction of the project or it is determined that a maintenance activity may affect these resources, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic

Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Phelicia M. Thompson of our office at telephone 415-977-8452 or E-mail: Phelicia.M.Thompson@spd02.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided upon request.